

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation
-----X

Master File No. 1:00-1898
MDL No. 1358 (SAS)
M21-88

This Document Relates to:

*Citrus Heights Water District, Del Paso Manor
Water District, Fair Oaks Water District, Florin
Resource Conservation District, Rio Linda Elverta
Community Water District and California-
American Water Company, Plaintiffs in People of
the State of California v. Atlantic Richfield Co., et
al., 04 Civ. 4972*

-----X
**PLAINTIFFS' MOTION FOR VOLUNTARY DISMISSAL WITHOUT
PREJUDICE PURSUANT TO FRCP 41(a)(2)**

Plaintiffs Citrus Heights Water District, Del Paso Manor Water District, Fair Oaks
Water District, Florin Resource Conservation District, Rio Linda Elverta Community
Water District and California American Water Company¹ ("Plaintiffs"), by and through
their undersigned attorneys, hereby move pursuant to Federal Rules of Civil Procedure
41(a)(2) to dismiss without prejudice the above-captioned action as to Defendants
ExxonMobil Corporation and ExxonMobil Oil Corporation ("ExxonMobil"), Kern Oil &
Refining Co. ("Kern"), 7-Eleven, Inc. ("7-Eleven") and Circle-K Stores, Inc. ("Circle-K")

¹ Plaintiff California-American Water Company ("Cal-Am") is also a Plaintiff in a separate lawsuit pending in MDL No. 1358, captioned "*California American Water Company v. Atlantic Richfield et al.*" (Case No. 04-Civ 4974 (SAS) for damages arising from MTBE contamination and threatened contamination of its wells other than those in Sacramento County. In the instant case (04-Civ 4972 (SAS)), Cal-Am seeks damages only for its threatened wells in Sacramento County, and it is solely those claims as to which Cal-Am moves for dismissal. Cal-Am expressly reserves all rights to pursue its non-Sacramento County claims against Defendants.

(collectively, "Defendants"), with each party bearing its own costs.

Plaintiffs commenced this action on or about September 30, 2003. This action was removed to the United States District Court for the Eastern District of California on or about December 10, 2003, and subsequently was transferred to MDL 1358. Plaintiffs previously settled and dismissed their claims against all defendants except ExxonMobil, Kern, 7-Eleven and Circle-K. Plaintiffs have informed the Court of their intention to dismiss their claims against such non-settling Defendants without prejudice, with the right to reinstate their claims in the event MTBE is detected in their wells in the future. (*See e.g.*, July 29, 2008 Amended Opinion and Order granting motion for good faith settlement determination, at 39.) Pursuant to this Court's directive at the October 30, 2008 Court conference, Plaintiffs respectfully move this Court for an Order granting voluntary dismissal without prejudice of this action against Defendants pursuant to Federal Rules of Civil Procedure 41(a)(2), with each party to bear its own costs.

Dated: January 15, 2009

Sher Leff LLP,

By:

A handwritten signature in black ink, appearing to read "Victor M. Sher", written over a horizontal line.

Victor M. Sher
Richard M. Franco
450 Mission Street, 4th Floor
San Francisco, CA 94105
Phone: (415) 348-8300
Fax: (415) 348-8333

Scott Summy
Baron & Budd, P.C.
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219-4281
Phone: (214) 521-3605
Fax: (214) 520-1181

Attorneys for Plaintiffs Citrus Heights,
Water District, Del Paso Manor Water
District, Fair Oaks Water District, Florin
Resource Conservation District, Rio
Linda Elverta Community Water District
and California-American Water
Company

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation
-----X

Master File No. 1:00-1898
MDL No. 1358 (SAS)
M21-88

This Document Relates to:

*Citrus Heights Water District, Del Paso Manor
Water District, Fair Oaks Water District, Florin
Resource Conservation District, Rio Linda Elverta
Community Water District and California-
American Water Company, Plaintiffs in People of
the State of California v. Atlantic Richfield Co., et
al., 04 Civ. 4972*

-----X
**ORDER GRANTING MOTION FOR VOLUNTARY DISMISSAL WITHOUT
PREJUDICE PURSUANT TO FRCP 41(a)(2)**

The Court, having considered Plaintiffs Citrus Heights Water District, Del Paso Manor Water District, Fair Oaks Water District, Florin Resource Conservation District, Rio Linda Elverta Community Water District and California-American Water Company ("Plaintiffs") Motion for Voluntary Dismissal Without Prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2), hereby grants the motion and dismisses without prejudice Plaintiffs' action as to Defendants ExxonMobil Corporation, ExxonMobil Oil Corporation, Kern Oil & Refining Co., 7-Eleven, Inc and Circle-K Stores, Inc., with each party to bear its own costs. This Order dismisses without prejudice all remaining claims in this action; however, this dismissal is without prejudice to the rights of California-American Water Company to pursue its pending claims in the action captioned,

California-American Water Company v. Atlantic Richfield et al., Case No. 04-Civ 4974
(SAS).

Dated: _____

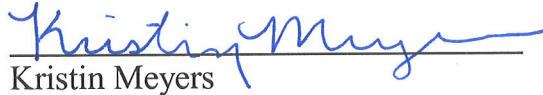
Hon. Shira A. Scheindlin

PROOF OF SERVICE

I, Kristin Meyers, hereby declare under penalty of perjury under the laws of the United States of America and the State of California that a true copy of the following document(s):

- 1. PLAINTIFFS' MOTION FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE PURSUANT TO FRCP 41(a)(2)**
- 2. [PROPOSED] ORDER GRANTING MOTION FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE PURSUANT TO FRCP 41(a)(2)**

was served electronically via LexisNexis File & Serve on all parties, and via email on Liason Counsel, on this 15th day of January, 2009.


Kristin Meyers